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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CHOI, PETER H

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/843,335

Applicant(s)

LANE POOR, ET AL.

Examiner

Peter Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/26/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/22/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 – 21 are pending in the application.

Information Disclosure Statement

The examiner has considered the Information Disclosure Statement (IDS) submitted by the applicant on 4/24/02. However, the examiner would like to point out that:

- The IDS claims that the application is a continuation-in-part of another application on page 2. However, no mention of any potential priority exists in any other documentation provided by the applicant, nor are there any records of parent applications from which the application in question may be a continuation-in-part of.
- U.S Patent #4,813,708 is listed on page 2 but is absent from the Information Disclosure Citation on page 3.

The examiner has interpreted both of these inaccuracies to be unintentional mistakes. Thus, the claims will be treated as a new application with no priority given, and U.S Patent #4,813,703 has been considered.

Drawings

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2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "46" has been used to designate both a "bi-directional parallel cable" in Figure 4 and a square representing a candidate/choice in Figure 5. Furthermore, the specification fails to identify reference characters 45 and 46, so the examiner has interpreted these characters to be a reference to the squares representing the candidates/choices on the election ballot. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 4-5, and 13 rejected under 35 U.S.C. 102(e) as being anticipated by Gibbs (U.S Patent #6,865,543).

As per claim 1, Gibbs teaches a method of recording a set of votes cast by a voter on a paper ballot comprising the steps of:

- (a) creating an electronic representation (**website**) of an apparent set of votes cast by the voter, the apparent set of votes being an interpretation of voter intent based on the voter's interaction with the paper ballot [Figures 3 and 4, Column 3, lines 32-49];
- (b) disclosing to the voter (**a report of**) the apparent set of votes cast [Figure 4, Column 3, lines 45-49];
- (c) receiving from the voter an indication (**signature of voter validation receipt, verification and validation of voter's votes on tabulation web sites**) whether to accept or reject the set of votes in the disclosure [Column 3, lines 20-23 and Column 5, lines 13-15];
- (d) providing the voter opportunity to replace or correct the apparent set of votes as cast (**review the voter validation receipt**) until the voter accepts the set of votes in the disclosure [Column 5, lines 8-11]; and
- (e) counting the votes (**validation of the receipt by a poll worker**) when the set is accepted by the voter [Column 5, lines 17-20].

As per claim 2, Gibbs teaches the method in claim 1 comprising the further step of:

(a) creating an electronic record (**a report on a website**) of the accepted votes for use in subsequent recounts [Column 3, lines 44-48, Figure 4].

As per claim 4, Gibbs teaches the method in claim 2 comprising the further steps of:

(a) reading (**accessing**) the electronic record (**report on a website**) of the accepted votes [Figures 4 and 7];

(b) comparing the votes based on the reading of the electronic record (**reported vote**) of the accepted votes with the counted accepted votes (**from the voter validation receipt**) [Column 6, lines 35-37]; and

(c) providing appropriate procedures (**an instruction message explaining how to report discrepancies between the information on the voter validation receipt and the information on the voter validation screens**) to correct any disparity between the votes from the electronic record and the votes to be included in the initial counting [Column 4, lines 17-20];

As per claim 5, Gibbs teaches the method in claim 1 comprising the further step of:

(a) creating a printed (**voter validation**) receipt for the voter showing the accepted votes [Column 5, lines 5-8, Figure 2].

As per claim 13, Gibbs teaches the method in claim 12 comprising the further step of:

(a) creating an electronic record (**a report on a website**) of the accepted votes for use in subsequent recounts [Column 3, lines 44-48, Figure 4].

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-10, 12, 15-16, and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs.

As per claim 9, Gibbs teaches a method to accurately reconstruct a count of votes made by a plurality of voters after an initial counting, comprising the steps of:

(a) creating an electronic record (**a report on a website**) of the votes cast by each voter; [Column 3, lines 44-48, Figure 4]

(b) reading (**accessing**) the electronic record (**report on a website**) of each voter [Figures 4 and 7];

(c) comparing the votes read from the electronic record (**reported vote**) of each voter with the votes that are going to be included in the initial counting (**from the voter validation receipt**); [Column 6, lines 35-37]; and

(d) providing a procedure **(an instruction message explaining how to report discrepancies between the information on the voter validation receipt and the information on the voter validation screens)** to correct any disparity between the votes from the electronic record and the votes to be included in the initial counting [Column 4, lines 17-20];

It is old and well known in the art that the count of votes can be reconstructed by tallying records from voter ballots. Electronic records of voting information can be stored (on computer spreadsheets or database files) for the purposes of verifying tally results, in case of recounts, or for verification by voters, enabling a count of votes to be reconstructed by tallying electronic records using means that are old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Gibbs to include a means of reconstructing the count of votes to verify election results or in use during recounts.

As per claim 10, Gibbs teaches a method to accurately reconstruct a count of votes made by a plurality of voters using paper ballots after an initial counting of the votes from the ballots, comprising the steps of:

(a) creating an electronic record **(a report on a website)** of the votes cast on each ballot prior to the initial counting [Column 3, lines 44-48, Figure 4];

(b) reading **(accessing)** the electronic record **(report on a website)** of each ballot [Figures 4 and 7];

(c) comparing the votes read from the electronic record (**reported vote**) of each ballot with the votes from the ballot that are going to be included in the initial counting (**from the voter validation receipt**)[Column 6, lines 35-37]; and

(d) providing appropriate procedures (**an instruction message explaining how to report discrepancies between the information on the voter validation receipt and the information on the voter validation screens**) to correct any disparity between the votes from the electronic record and the votes to be included in the initial counting [Column 4, lines 17-20];

It is old and well known in the art that the count of votes can be reconstructed by tallying records from voter ballots. Electronic records of voting information can be stored (on computer spreadsheets or database files) for the purposes of verifying tally results, in case of recounts, or for verification by voters, enabling a count of votes to be reconstructed by tallying electronic records using means that are old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Gibbs to include a means of reconstructing the count of votes to verify election results or in use during recounts.

As per claim 12, Gibbs teaches an apparatus for recording a set of votes cast by a voter on a paper ballot comprising:

(a) an electronic representation (**a report on a website**) of the apparent set of votes cast by the voter, the apparent set of votes being an interpretation of voter

intent based on the voter's interaction with the paper ballot; [Column 3, lines 44-48, Figure 4];

(b) means for disclosing to the voter the apparent set of votes cast (**issuing a voter validation receipt**), means for receiving from the voter an indication whether to accept or reject the apparent set of votes in the disclosure (**signature of voter validation receipt, verification and validation of voter's votes on tabulation web sites**); means for providing the voter opportunity to replace or correct the apparent set of votes as cast (**an instruction message explaining how to report discrepancies between the information on the voter validation receipt and the information on the voter validation screens**) until the voter accepts the vote as indicated in the disclosure; [Column 3, lines 20-23, Column 4, lines 17-20, and Column 5, lines 13-15] and

(c) means for counting the votes (**validation of the receipt by a poll worker**) when the set is accepted by the voter [Column 5, lines 17-20].

Although not specifically disclosed by Gibbs, means for creating electronic documents are old and well known in the art. The ease of storing and transferring electronic documents are among the benefits derived from using electronic documents. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Gibbs to include means for creating electronic documents containing a representation of the set of votes cast by the voter to take advantage of the benefits discussed above therein.

As per claim 15, Gibbs teaches the apparatus in claim 13 further comprising:

- (a) reading (**accessing**) the electronic record (**report on a website**) of the accepted votes; [Figures 4 and 7] and
- (b) comparing the votes case based on the reading of the electronic record of the accepted (**reported**) votes with the accepted votes (**from the voter validation receipt**). [Column 6, lines 35-37]

Gibbs does not explicitly disclose means for reading an electronic record for comparing vote information. However, it is common knowledge that reading and comparing information from a paper and electronic format can be accomplished by means that are old and well known in the art, such as simply "eyeballing" and visually comparing data. Means of reading electronic information (such as a report of voting information) on a website is old and well known in the art and can be accomplished by using a Internet browser and computer with Internet access. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Gibbs to include a means for reading and comparing accepted votes with electronic records to verify that each ballot has been properly counted in determining an election result.

As per claim 16, Gibbs teaches the apparatus in claim 12 further comprising:

- (a) means (**a generator**) for printing a receipt report (**voter validation receipt**) showing the accepted votes [Column 5, lines 5-8, Figure 2, Claim 14].

As per claim 20, Gibbs teaches an apparatus to accurately reconstruct a count of votes made by a plurality of voters after an initial counting, the apparatus comprising;

(a) creating an electronic record (**a report on a website**) of the votes cast by each voter; [Column 3, lines 44-48, Figure 4]

(b) reading (**accessing**) the electronic record (**report on a website**) of the votes cast by each voter; comparing the votes read from the electronic record (**reported vote**) of each voter with the votes that are going to be included in the initial counting (**from the voter validation receipt**); [Figures 4 and 7, Column 6, lines 35-37]

(c) means for correcting any disparity between the votes read from the electronic record of each voter and the votes that are going to be included (**an instruction message explaining how to report discrepancies between the information on the voter validation receipt and the information on the voter validation screens**) in the initial counting; and reconstructing the count of votes by tallying the electronic records. [Column 4, lines 17-20];

Gibbs does not explicitly disclose means for creating, reading or comparing an electronic record. However, means for creating electronic documents are old and well known in the art, as is the step of providing access to electronic information through Internet websites. It is common knowledge that reading and comparing information from a paper and electronic format can be accomplished by means that are old and well known in the art, such as simply "eyeballing" and visually comparing data. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Gibbs to include a means for creating electronic records of votes that can

be read and compared to verify that each ballot has been properly counted in determining an election result and that an electronic version of each ballot is retained in case of recounts.

As per claim 21, Gibbs teaches an apparatus to accurately reconstruct a count of votes made by a plurality of voters using paper ballots after an initial counting of the votes from the ballots, the apparatus comprising;

(a) means for creating an electronic record (**a report on a website**) of the votes cast on each ballot prior to the initial counting [Column 3, lines 44-48, Figure 4];

(b) means for reading (**accessing**) the electronic record (**report on a website**) of each ballot; means for comparing the votes read from the electronic record (**reported vote**) of each ballot with the votes from the ballot that are going to be included in the initial counting (**from the voter validation receipt**); [Figures 4 and 7, Column 6, lines 35-37]

(c) means for correcting any disparity between the votes from the electronic record and the votes to be included (**an instruction message explaining how to report discrepancies between the information on the voter validation receipt and the information on the voter validation screens**) in the initial counting [Column 4, lines 17-20]; and

Gibbs does not explicitly disclose means for creating, reading or comparing an electronic record. However, means for creating electronic documents are old and well known in the art, as is the step of providing access to electronic information through

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Internet websites. It is common knowledge that comparing information from a paper and electronic format can be accomplished by means that are old and well known in the art, such as simply "eyeballing" and visually comparing data. Although claim 21(d) is not specifically taught by Gibbs, it is old and well known in the art that voting information would be stored (on computer spreadsheets or database files) for the purposes of verifying tally results, in case of recounts, or for verification by voters, enabling a count of votes to be reconstructed by tallying electronic records using means that are old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Gibbs to include a means for creating, reading, comparing, and tallying votes of electronic records to verify that each ballot has been properly counted in determining an election result and that an electronic version of each ballot is retained in case of recounts.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Boram (U.S Patent #4,641,240) teaches an electronic voting machine and system that allows voters to enter voting information into a personal computer, where their votes are stored in memory. A "proof copy" of the ballot is printed and the voter can review their selections before submitting their votes. Ballots are provided with bar coded labels for individual candidates and a CPU is used to tally votes.

Chumbley (U.S Patent #5,610,383) teaches a device for collecting voting data. The device is to be used with paper ballots where votes are indicated by darkened bubbles or punched holes. A bar code and/or magnetic strip reader is attached to the device for reading data from a bar code. A receipt is printed with a bar code that includes all ballot data collected. Ballots are stored in the event of a subsequent verification or a recount of the voting results.

McDermott et al. (U.S Patent #6,769,613) teaches a auto-verifying voting system and voting method that provides for a computer-prepared and computer-printed election ballot generated by input from the voter, and provides for auto-verification whereby the voter has the opportunity to inspect the computer-printed ballot with their votes. The voting system also provides for correction of the votes of the voter in the computer station. Ultimately, the voter is presented with a printed ballot prepared by the voting station and the connected printer, which accurately presents the votes of the voter for submission by the voter for final tabulation.

Olmstead et al. (U.S Patent #4,236,066) teaches a voting machine that allows voters to void their ballot and revote if dissatisfied with the ballot as marked. The user is required to operate a voting level to submit their votes when satisfied with their selection.

Winnett (U.S Patent #6,817,515) teaches a method of verifiable voting that includes receiving election selections and producing a receipt representation of the election selections. The voter is prompted to verify that their list of voter selections was received and counted correctly. The receipt generates a receipt number that includes alphanumeric characters and numbers.

Kotob et al. (U.S Patent #6,799,723) teaches an automated voting system that tracks the number of votes and continuously displays the number of votes cast on a counter system as it clearly displays the voter intent. The invention includes a vote entry station that incorporates an integrated computer program with a graphical user interface for displaying the ballots or issues on a screen. The program allows voters to change their vote prior to casting by permitting the voter to review their ballot choices and make changes. Voters are permitted to cast their ballot at any time, and when a "touch here" button is pressed, the voting is completed and the selections of the voter are recorded.

Challener et al. (U.S Patent #6,081,793) teaches a method and system for secure computer moderated voting that allows paper ballots to be utilized. Certified ballots carry a unique number and/or stamp and/or electronic signature or watermark that distinguishes ballots as unique. Voter ballots are added to the election results by a results server, which tabulates the results at the end of the election. Voters are able to compare the vote sent to the ballot counter to the vote that has been sent to a vote authenticator. The system utilizes encryption in a manner which allows the results server to perform all the functions associated with the tabulation and correction of votes.

The system also utilizes a journal server to record the votes, which is particularly useful in the correction of erroneous votes and the challenge of votes, since it provides a historical archive of voting information. The voter must engage in a correction routine interaction with the authentication server in order to delete erroneous previously completed votes and replace that vote with a new vote. The new vote is then encrypted and passed to the ballot counter.

Gibbs (US 2002/0128902) teaches a voting apparatus and method that allows voters to select their choices using a computer display with touch-sensitive video screens. The voter touches the selected candidate and a signal is sent to the central processor corresponding to that candidate. The vote is then communicated to a tabulator for summing the votes for the candidate. The apparatus provides a voter validation receipt for voter certification, validation, and verification of voting. A phone number is provided where voters can voice any discrepancies between the recorded ballot and the voter validation receipt. The voter is required to review and confirm their ballot and sign the receipt before leaving the polling place.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (703) 305-0852. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PC

March 25, 2005


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SUPERVISORY PATENT EXAMINER
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